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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/657,116
Filing Date: September 07, 2000
Appellant(s): MARTINEZ, ANTHONY EDWARD

Rudolf O. Siegesmund
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/27/2005 appealing from the Office action mailed 11/16/2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,559,872	Lehikoinen et al.	05-2003
5,995,101	Clark et al.	11-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehikoimen et al. ("Lehikoiment", U.S. Pat. No. 6,559,872) in view of Clark et al. ("Clark", U.S. Pat. No. 5,995,101).

Per claim 1, Lehikoimen teaches a programmable apparatus for displaying secondary content, comprising: a computer (col. 2, lines 49-52; col. 4, lines 5-10); a software program for displaying a spotlight cursor having a circumference, and the computer being directed to display secondary content when said secondary content is covered by a point on said circumference (fig. 2; col. 3, lines 15-27; and col. 4, lines 5-20), but does not specifically teach the secondary content is displayed without user interaction. However, Clark teaches the secondary content is displayed without user interaction (figs 2-3; col. 1, lines 50-63; col. 2, lines 51-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the teaching of Clark in the invention of Lehikoiment because it provides users a multi-level of information without user interactions when one of the objects 120-125 of fig. 2 is under the perimeter of the selection circle.

Per claim 2, Lehikoimen teaches the programmable apparatus of claim 1 wherein said circumference is visible as a solid line or a broken line or not visible (fig. 2; a solid line circle 100).

Per claim 3, Lehikoimen teaches the programmable apparatus of claim 1 wherein said secondary content is one of the following: gradual, all or zone (col. 4, lines 5-20; all secondary content is provided visually and/or aurally to the user).

Per claim 4, Lehikoimen teaches the programmable apparatus of claim 1 wherein the light within the circumference is of selectable and variable intensity (col. 4, lines 22-33; the area with the circumference is selectable and variable intensity by increasing or decreasing the radius of the circle).

Per Claim 5, Lehikoimen teaches the programmable apparatus of claim 1 wherein the area inside the circumference is a pre-selectable color (fig. 2; it is inherent that the area inside the circle 100 has a color of the background of the screen and is pre-selectable by the system).

Per Claim 6, Lehikoimen teaches a computer readable memory for causing a computer having a cursor to display secondary content comprising: a computer readable storage medium, and a program stored in said storage medium (col. 2, lines 40-53); the storage medium so configured by said program, causes the computer to display a spotlight cursor having a radius, a circumference, and a center located at the forward most point of the cursor wherein responsive to coincidence of coordinates on said circumference and said secondary content, said secondary content is displayed (fig. 2; col. 3, lines 15-27; and col. 4, lines 5-20; col. 3, lines 28-32), but does not specifically teach the secondary content is displayed without user interaction. However, Clark teaches the secondary content is displayed without user interaction (figs 2-3; col. 1, lines 50-63; col. 2, lines 51-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the teaching of Clark in the invention of Lehikoimen because it provides users a multi-level of information without user interactions when one of the objects 120-125 of fig. 2 is under the perimeter of the selection circle.

Per claim 7, Lehikoimen teaches a computer implemented process to accomplish display of secondary content upon activation by a spotlight cursor comprising: using a first program in

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the memory of a computer, performing the following steps; determining whether or not the user has selected the spotlight cursor (col. 4, lines 40-46); determining whether or not radius has been selected (col. 4, lines 22-33 and 50-55); obtaining the coordinates of the cursor and calculating the location of a circumference (col. 3, lines 15-25; col. 3, lines 32-40); determining whether the circumference has covered a secondary content and causing the secondary content to be displayed (col. 3, lines 32-40; col. 4, lines 5-20); using a second program in the memory of a computer, performing the following steps; displaying a menu (col. 4, lines 22-33); determining whether or not secondary contents are to be displayed, selecting the radius, and selecting intensity (col. 4, lines 5-20, and lines 22-33; the area with the circumference is selectable and variable intensity by increasing or decreasing the radius of the circle); selecting color for area inside the circumference, selecting color of the circumference, and selecting configuration of the circumference (fig. 2; col. 4, lines 22-32; it is inherent that the area inside the circle 100 has a color of the background of the screen and is selectable by the system and the circumference has a color in order to provide the user with a visual indication of the circle); and determining the definition of secondary content (col. 4, lines 5-20), but does not specifically teach the secondary content is displayed without user interaction. However, Clark teaches the secondary content is displayed without user interaction (figs 2-3; col. 1, lines 50-63; col. 2, lines 51-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the teaching of Clark in the invention of Leikoiment because it provides users a multi-level of information without user interactions when one of the objects 120-125 of fig. 2 is under the perimeter of the selection circle.

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Per claim 8, Lehikoimen teaches a method for creating a spotlight cursor for causing secondary content to be revealed comprising: obtaining the coordinates of the cursor and calculating the location of a circumference (col. 3, lines 15-25; col. 3, lines 32-40); determining whether the circumference has covered a secondary content and responsive to a determination that the circumference has covered a secondary content, causing a secondary content to be displayed (col. 3, lines 32-40; col. 4, line 5-20), but does not specifically teach the secondary content is displayed without user interaction. However, Clark teaches the secondary content is displayed without user interaction (figs 2-3; col. 1, lines 50-63; col. 2, lines 51-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the teaching of Clark in the invention of Lehikoimen because it provides users a multi-level of information without user interactions when one of the objects 120-125 of fig. 2 is under the perimeter of the selection circle.

Per claim 9, Lehikoimen teaches the method of claim 8 further comprising the step of determining whether or not the user has selected the spotlight cursor (col. 4, lines 40-46).

Per claim 10, Lehikoimen teaches the method of claim 8 further comprising the step of determining whether or not the radius has been selected (col. 4, lines 50-55).

Claim 11 is rejected under the same rationale as Claim 1.

Per claim 12, Lehikoimen teaches the method of claim 11 wherein the peripheral area is a circle (fig. 2; circle 100).

Per claim 13, Lehikoimen teaches the method of claim 11 wherein the intersection occurs on a graphical user interface (fig. 2; col. 3, lines 15-20).

Per claim 14, Lehikoimen teaches the method of claim 11 wherein the cursor is a pointer (fig. 3; col. 4, lines 34-40).

Per claim 15, Lehikoimen teaches the method of claim 11 wherein the secondary content is displayed without the cursor intersecting the item (fig. 3; col. 4, lines 34-40; col. 4, lines 5-20; col. 3, lines 28-32; the examiner infers that the cursor is the center of the selection circle).

Claim 16 is rejected under the same rationale as claim 1.

Claims 17-20 are rejected under the same rationale as claim 12-15 respectively.

(10) Response to Argument

The appellant argues the following:

(a) Lehkoinen does not teach or suggest a cursor having a circumference because Lehkoinen does not disclose a circumference that is attached to a cursor if the term cursor is given its usual and customary meaning.

(b) Lehkoinen does not teach or suggest a circumference that is not visible; a secondary content that is either gradual, all or zone; a circumference that is of selectable and variable intensity, and/or an area inside the circumference that is a pre-selectable color.

(c) Clark does not teach or suggest a cursor that displays secondary content without user interaction.

(d) Clark contains no suggestion to combine a "tool tip" with a cursor of Lehkoinen to cause hidden information to be revealed.

The examiner does not agree for the following reasons:

(a) Lehtikoinen's cursor meets the appellant's definition of cursor. The appellant defines a cursor to be "a moveable, visible mark used to indicate a position of interest on a display surface" (pg. 14 of the Appeal Brief). Lehtikoinen teaches a cursor because the cursor of Lehtikoinen is point on the screen that indicates a position of interest and movable (see, col. 3, lines 18-20 and lines 30-32; col. 4, lines 50-52). In addition, Lehtikoinen's invention is an improvement to a usual or customary cursor or pointer in which Lehtikoinen introduces a controller for increasing or decreasing a radius or selection circle of the cursor (see, figs. 2 and 3; col. 1, lines 21-25 and lines 42-44; col. 3, lines 15-20). Accordingly, the cursor with a selection circle of Lehtikoinen reads on the appellant's claimed language of "spotlight cursor having a circumference".

(b) Lehtikoinen teaches or suggests a circumference that is a solid line as in claim 3 (fig. 2; a solid line circle 100); a secondary content that is either gradual, all or zone (col. 4, lines 5-20; all secondary content is provided visually and/or aurally to the user); a circumference that is of selectable and variable intensity (col. 4, lines 22-33; the area with the circumference is selectable and has variable intensity by increasing or decreasing the radius of the circle), and/or an area inside the circumference that is a pre-selectable color (fig. 2; it is inherent that the area inside the circle 100 has a color of the background of the screen and is pre-selectable by the system).

(c) In the appellant invention, a circle is added to a cursor and the selection circle moves as the user moves the cursor. When a secondary content is covered by a point on the circle, the secondary content is displayed without the user interaction. In Clark, when a cursor is placed or left in or near the area of a control area, secondary content is displayed without any user

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interaction (figs. 2 and 3; col. 2, lines 1-8). Accordingly, Clark teaches the claimed feature of a cursor displaying secondary content without user interaction.

(d) In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the teaching of Clark in the invention of Lehto because it provides users a multi-level of information without user interactions when one of the objects 120-125 of fig. 2 of Lehto is under the perimeter of the selection circle (see, Clark col. 1, lines 54-62; col. 2, lines 1-9).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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